



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/879,834	06/12/2001	Neal D. Hartsell	SURG:149	4298

7590

12/22/2004

O'KEEFE, EGAN & PETERMAN, L.L.P.  
Building C, Suite 200  
1101 Capital of Texas Highway South  
Austin, TX 78746

EXAMINER
----------

HU, JINSONG

ART UNIT	PAPER NUMBER
----------	--------------

2154

DATE MAILED: 12/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/879,834

Applicant(s)

HARTSELL ET AL.

Examiner

Jinsong Hu

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 30 ~~MONTHS~~ <sup>days 71</sup> FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-91 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-23, drawn to a system and method for providing information management services to two or more network entities in a session-aware manner, classified in class 719, subclass 332.
  - II. Claims 24-44, drawn to a system and method for providing differentiated business service in a management environment, classified in class 709, subclass 226.
  - III. Claims 45-69, drawn to a system and method for prioritizing performance of task based on priority-indicative parameters, classified in class 718, subclass 103.
  - IV. Claims 70-91, drawn to a system and method for managing information in a network management system, classified in class 709, subclass 228.
2. The inventions are distinct, each from the other because of the following reasons:

Inventions I, II, III and IV are disclosed as different combinations which are not connected in design, operation or effect. These combinations are independent if it can be shown that (1) they are not disclosed as capable of use together, (2) they have

Art Unit: 2154

different modes of operation, (3) they have different functions, or (4) they have different effects. (MPEP 806.04, MPEP 808.01).

In the instant case, invention I is directed to a method comprises the steps of monitoring and prioritizing one or more system performance parameters. The invention II is directed to a method comprises the steps of providing services to user based on user's request identification parameters, agreement policy etc. The invention III is directed to a method comprises the steps of assigning one or more information manipulation task to one or more processing engines based on corresponding priority-indicative parameters. The invention IV is directed to a method comprises the steps of delivering content to user based on priority-indicative parameters.

3. These inventions are distinct for the reasons given above, and the search required for each Group is different and not co-extensive for examination purpose. For example, the searches for the four inventions would not be co-extensive because these groups would require different searches on PTO's classification class and subclass as following:

(a) the Group I search (claims 1-23) would require use of search **Class 719, subclass 332.**

(b) the Group II search (claims 24-44) would require use of search **Class 709, subclass 226.**

Art Unit: 2154

(c) the Group III search (claims 45-69) would require use of search **Class 718, subclass 103**.

(d) the Group IV search (claims 70-91) would require use of search **Class 709, subclass 228**.

4. A telephone call was made to Mr. William W. Enders (Reg. 41,735) to address a possibility of restriction requirement, but did not result in an oral election being made.

5. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

6. Applicant is reminded that the required for response to this requirement is 30 days, not one month.

Art Unit: 2154

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jinsong Hu whose telephone number is (571) 272-3965.


The examiner can normally be reached on 8:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A. Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jinsong Hu

December 3, 2004

 JOHN FOLLANSBEE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100